

House Bill 1146

By: Representatives Levitas of the 82nd, Ramsey of the 72nd, Powell of the 171st, Willard of the 49th, Wilkinson of the 52nd, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to criminal offenses against public health and morals in general, so as to extensively revise provisions relating to criminal offenses involving cruelty to animals; to define terms; to revise the elements and definitions of offenses; to change provisions relating to criminal punishment; to provide for other related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to criminal offenses against public health and morals in general, is amended by revising Code Section 16-12-4, relating to the crime of cruelty to animals, as follows:

"16-12-4.

(a) As used in this Code section, the term:

(1) 'Animal' shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.

(2) 'Conviction' shall include pleas of guilty or nolo contendere or probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty or nolo contendere, or probation as a first offender for an offense under the laws of the United States or any of the several states that would constitute a violation of this Code section if committed in this state.

~~(3) 'Willful neglect' means the intentional withholding of food and water required by an animal to prevent starvation or dehydration.~~

(3) 'Humane care' means, but is not limited to, making accessible adequate food and drinkable water and providing: sanitary shelter; ventilation and sufficient shade; adequate housing which offers protection from the weather and harsh temperatures that pose a

substantial risk of endangering the health or well-being of the animal; and routine and emergency veterinary care when necessary.

(4) 'Proper confinement in a motor vehicle' means an owner or person shall not leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of the animal due to heat, cold, lack of adequate ventilation, or lack of food or water and that could reasonably be objectively expected to cause suffering by the animal or disability or death of the animal.

(b) A person commits the offense of cruelty to animals when he or she causes death or unjustifiable physical pain or suffering to any animal by ~~an act, an omission, or willful neglect. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor, provided, however, that:~~

(1) Failing to provide humane care; or

(2) Failing to provide proper confinement in a motor vehicle.

~~(1)(c) Any person who is convicted of a second or subsequent violation of this subsection (b) of this Code section shall be punished by imprisonment not to exceed 12 months, a fine not to exceed \$5,000.00, or both; and (2) Any guilty of a misdemeanor; provided, however, that any person who is convicted of a second or subsequent violation of this subsection (b) of this Code section within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, which results in the death of an animal shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by imprisonment for not less than three months ten days nor more than 12 months, a fine not to exceed \$10,000.00, or both, which punishment shall not be suspended, probated, or withheld.~~

~~(c)(d) A person commits the offense of aggravated cruelty to animals when he or she knowingly and maliciously:~~

(1) Intentionally fails to provide humane care thereby causing the death of an animal;

(2) Intentionally causes death or physical harm to an animal by rendering a part of such animal's body useless or by seriously disfiguring such animal; or

(3) Tortures an animal by infliction of or subjection to severe physical pain with the intent to cause prolonged suffering or pain.

(e) A person convicted of the offense of aggravated cruelty to animals shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$15,000.00 \$20,000.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection (d) of this Code section within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, shall be punished by imprisonment

for not less than one nor more than ~~five~~ ten years, a fine not to exceed the amount provided by Code Section 17-10-8, or both.

~~(d)~~(f) Before sentencing a defendant for any conviction under this Code section, the sentencing judge may require psychological evaluation of the offender and shall consider in this regard the entire criminal record of the offender.

~~(e)~~(g) The provisions of this Code section shall ~~not~~ neither be construed as prohibiting conduct which is otherwise permitted under the laws of this state or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices, or the authorized practice of veterinary medicine nor ~~to limit~~ as limiting in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property.

~~(f)~~(h)(1) Nothing in this Code section shall be construed as prohibiting a person from:

(A) Defending his or her person or property, or the person or property of another, from injury or damage being caused by an animal reasonably believed to constitute an imminent threat; or

(B) Injuring or killing an animal reasonably believed to constitute ~~a~~ an imminent threat ~~for~~ of injury to persons or damage to any property, livestock, or poultry.

(2) The method used to injure or kill such animal pursuant to this subsection shall be designed to be as humane as is possible under the circumstances. A person who humanely injures or kills an animal under the circumstances indicated in this subsection shall incur no civil or criminal liability for such injury or death."

SECTION 2.

This Act shall become effective on July 1, 2010, and shall apply with respect to offenses committed on or after that date. Offenses committed prior to that date shall continue to be governed by prior law.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.